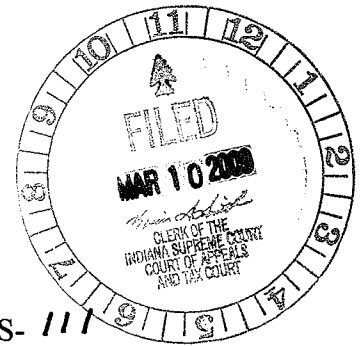


**In the  
Indiana Supreme Court**



IN THE MATTER OF )  
 )  
APPROVAL OF LOCAL RULES )  
 )  
FOR ADAMS COUNTY )

Cause No. 01S00-0903-MS- 111

ORDER APPROVING AMENDMENT TO LOCAL RULES

Pursuant to Ind. Trial Rule 79(H), the Hon. Frederick A. Schurger and the Hon. Patrick R. Miller, Judges of the Adams Circuit and Superior Courts, respectively, request this Court's approval of an amendment to Adams County Local Rule LR01-TR-79-01. They seek an exception to Ind. Trial Rule 79(H)(1), which requires the appointment of special judges from eligible persons within the administrative district, because of the unique weighted caseloads in Adams and surrounding counties. The Judges have requested this Court to make an exception as it relates to the special judge being selected from within the administrative district.

This Court grants to Adams Circuit and Superior Courts an exception to the appointment of special judges from eligible persons within the administrative district as required by Ind. Trial Rule 79(H)(1). The Court also finds that their proposed rule amendment otherwise complies with the requirements of Ind. Trial Rule 79(H) and, accordingly, should be approved retroactive to January 1, 2009.


IT IS, THEREFORE, ORDERED by this Court that Adams County Local Rule LR01-TR-79-01, set forth as an attachment to this Order, is approved and is to be posted in the county clerk's office(s) and on the county clerk's website, if any, and on the Indiana Judicial Website.

The Clerk of this Court is directed to forward a copy of this Order to the Hon. Frederick A. Schurger, Adams Circuit Court, P.O. Box 610, Decatur, IN 46733-0610; and to the Hon.

Patrick R. Miller, Adams Superior Court, P.O. Box 569, Decatur, IN 46733-0569; and to the Clerk of the Adams Circuit Court.

The Clerk of the Adams Circuit Court is directed to enter this Order and attachment in the Record of Judgments and Orders for the Court, to post this Order and attachment for examination by the Bar and the general public, and if available, to publish this Order and attachment on the county clerk's website.

DONE at Indianapolis, Indiana, this 10<sup>th</sup> day of March, 2009.

  
\_\_\_\_\_  
Randall T. Shepard  
Chief Justice of Indiana

STATE OF INDIANA

IN THE ADAMS CIRCUIT COURT  
CAUSE NO. 01C01-0901-CB-0001

COUNTY OF ADAMS SS:

IN THE ADAMS SUPERIOR COURT  
CAUSE NO. 01D01-0901-CB-0001

**AMENDED ADAMS COUNTY TRIAL RULE 79(H) LOCAL RULE**

**LR01-TR-79-01**

**(A) Cases involving a change of judge**

In the absence of an agreement as to a particular special judge [TR 79(D)], or an agreement to have the regular sitting judge appoint a special judge [TR 79(E)], the regular sitting judge shall name a panel pursuant to TR 79(F) consisting, whenever possible, of the other judge from Adams County, Wells County judges, and senior judges who serve in Adams County. If a sufficient number of Adams County judges and senior judges does not exist, then a panel shall be named including the available Adams County judge and senior judges, and judges, senior judges or magistrates selected from counties within the Judicial Administrative District of which Adams County is a member.

If none of the above methods produce a special judge, the Court Administrator shall select a special judge (on a rotating basis) from a list of judges made up from the following: the other judge from Adams County, the Circuit and Superior judges from Wells County, the Circuit and Superior judges from Jay County and the judge of the Blackford Superior Court.

In cases in which no judge is eligible to serve as special judge or the particular circumstance of a case warrants selection of a special judge by the Indiana Supreme Court, the regular sitting judge may certify the case to the Supreme Court for appointment of a special judge.

**(B) Cases involving recusal or disqualification of a judge**

In the absence of an agreement as to a particular special judge [TR 79(D)], or an agreement to have the regular sitting judge appoint a special judge [TR 79(E)], the court administrator of the court shall select a special judge (on a rotating basis) from a list of judges made up from the following: the other judge from Adams County, the Circuit and Superior judges from Wells County, the Circuit and Superior judges from Jay County and the judge of the Blackford Superior Court.

In cases in which no judge is eligible to serve as special judge or the particular circumstance of a case warrants selection of a special judge by the Indiana Supreme Court, the regular sitting judge may certify the case to the Supreme Court for appointment of a special judge.

In cases in which a senior judge has been hearing a case under prior local rule because of the recusal or disqualification of a judge, that senior judge shall continue to have jurisdiction over that case as special judge.

AMENDED  
ADAMS COUNTY CASELOAD RULE

~~WHEREAS, on July 16, 1999, the Supreme Court of Indiana issued an Order for Development of Local Caseload Plan.~~

~~WHEREAS, on September 2, 1999, the majority of Judges in District 3 met in an effort to comply with the Supreme Court's Order and to provide for an efficient method of resolving legal disputes arising in the District 3 counties.~~

~~WHEREAS, the undersigned Judges agreed to adopt a Uniform Local Rule complying with the District 3 Caseload Distribution Rule made September 2, 1999 revised May 13, 2008.~~

~~WHEREAS, the Adams Circuit Superior Court currently has will have a newly appointed elected judge with the normal likelihood of unusual statistics following such appointment election in November, 2008.~~

~~WHEREAS, the underutilized courts near or adjoining Adams County include Jay Circuit and Superior Court and Blackford Superior Court (which are in administrative District 6) but because of travel distance are among the most logical additional choices for Special Judge appointment of cases from Adams County courts.~~

~~NOW THEREFORE, the following Local Rules are adopted:~~

LR01-TR79-01 DEFINITIONS

~~1.1—"Over-utilized counties"—Counties in which, according to the most recent Weighted Caseload Measure (WCM), the judicial officers are being utilized at greater than the statewide average.~~

~~1.2—"Under-utilized counties"—Counties in which, according to the most recent WCM, the judicial officers are being utilized at more than twenty-five (25) percentage points below the statewide average.~~

~~1.3~~ —“Other counties” —Counties in which, according to the most recent WCM, the judicial officers are being utilized at the statewide average, or within twenty-five (25) percentage points below the statewide average.

LR01-TR79-02

~~2.1~~ —Whenever selection of a special judge is required under Trial Rule 76 or Trial Rule 79(H), this shall be the exclusive method for selection of special judges.

~~2.2~~ —In an “Over Utilized County”, special judges shall be selected exclusively from a list of judicial officers presiding in courts in “Under Utilized Counties.” To fairly and evenly distribute these assignments and to address geographic considerations, appointment of special judges in “Over Utilized Counties”, based upon the 1998 2007 WCM, shall be as follows:

A. Special judges serving Allen County shall be selected from the nine (9) ~~seven (7)~~ judicial officers sitting in Adams, LaGrange, Steuben and Wells counties;

B. Special judges serving DeKalb Noble County shall be selected from the Five (5) ~~seven (7)~~ judicial officers sitting in LaGrange and Adams, Steuben and Wells counties;

C. Special judges serving Huntington County shall be selected from the four (4) judicial officers sitting in Adams and Wells counties.

~~2.3~~ —In an “Under Utilized County”, special judges shall be selected exclusively from a list of judicial officers sitting in other “Under Utilized Counties”. To fairly and evenly distribute these assignments and to address geographic considerations, appointment of special judges in “Under Utilized Counties”, based upon the 1998 2007 WCM, shall be as follows:

A. Special judges serving Adams County shall be selected from the other judicial officer sitting in Adams County and the two (2) judicial officers sitting in Wells County;

B. Special judges serving LaGrange County shall be selected from the other judicial officers sitting in LaGrange County and the three (3) judicial officers sitting in Steuben County;

BC. Special judges serving Steuben County shall be selected from the other judicial officer sitting in Steuben County and the two (2) judicial officers sitting in LaGrange County.

~~C. D. Special judges serving Wells County shall be selected from the other judicial officer sitting in Wells County and the two (2) judicial officers sitting in Adams County.~~

~~2.4 — In an "Other County", special judges will be selected from counties which are similarly situated. To fairly and evenly distribute these assignments and to address geographic considerations, appointment of special judges, based upon the 1998 2007 WCM, shall be as follows:~~

~~A. Special judges serving Noble County shall be selected from the other judicial officers sitting in Noble County and the two (2) judicial officers sitting in Whitley County.~~

~~B. Special judges serving Whitley County shall be selected from the other judicial officer sitting in Whitley County and the three (3) judicial officers sitting in Noble County.~~

~~A. A special judge serving Huntington County shall be the judicial officer sitting in said County. If said other judicial officer does not qualify, special judges shall be selected from the two (2) judicial officers sitting in Whitley County.~~

~~B. Special judges serving Whitley County shall be selected from the other judicial officer sitting in said County and the two (2) judicial officers sitting in Huntington County.~~

~~C. Special Judges serving DeKalb County shall be selected from the other two (2) judicial officers sitting in said county. If neither of said judicial officers qualify, special judges shall be selected from the two (2) judicial officers sitting in LaGrange County.~~

~~D. A Special judge serving LaGrange County shall be the other judicial officer sitting in said County. If said other judicial officer, does not qualify special judges shall be selected from the three (3) judicial officers sitting in DeKalb County.~~

~~2.5 — Each judge in every court of District 3 shall maintain a list of judges available to serve as special judge in his or her court. The list shall remain confidential to the judge and his or her designated staff. The method for selection of a special judge from the list shall be sequential, that is, from top to bottom, until each judicial officer has been selected. No judicial officer appearing on the list shall be selected more than once until all judicial officers have been selected.~~

~~2.6 — The special judge selected hereunder, with agreement of the parties, may shall have the sole discretion to transfer the proceeding under Trial Rule 79(M).~~

2.7— Each special judge, who receives a case hereunder, shall maintain a statistical record of the number, case type and disposition of each case received to quantify the additional caseload and shall report same to the Division of State Court Administration on a quarterly basis.

2.8— Each judge, who assigns a special judge hereunder, shall maintain a statistical record of the number and case type of each case assigned and shall report same to the Division of State Court Administration on a quarterly basis.

2.9— This rule applies only to selection of special judges in civil matters. It does not apply to the selection of special judges in criminal and juvenile matters.

2.10— The judges in District 3 shall meet on or before May 1 of each year to review the WCM from the previous year, shall meet during the month of September in each year to review the impact of this rule and, no later than October 1 of each year, shall adopt a rule for the ensuing year.

2.11— All previous local rules adopted by the judge in District 3 regarding the selection of special judges in civil matters are repealed to the extent that they are inconsistent with this Rule.

2.12— This Rule shall be effective July 31, 2006 or upon approval by the Indiana Supreme Court if required.

LR01-TR79-03

3.1— In the event of the recusal or disqualification of the presiding Adams Circuit Court Judge, for decedent estate matters, the judge of the Adams Superior Court shall serve as special judge.

3.2— All decedent estate cases shall be filed in the Adams Circuit Court.

3.3— In the event of the recusal or disqualification of the presiding Adams Circuit Court Judge or the presiding Adams Superior Court Judge a panel of judges consisting of the other judicial officer sitting in Adams County, the regular judge of the Jay Circuit Court, the regular judge of the Jay Superior Court, the regular judge of the Blackford Superior Court, the regular judge of the Wells Superior Court and the regular judge of the Wells Circuit Court is created. Selection shall be done pursuant to TR 79(H). The method of selection from the list of special judges shall be that the Judge of the Adams Circuit Court for his court and the Judge of the Adams Superior Court for his court shall each maintain a the list of the panel and upon such recusal or disqualification, going from top to bottom, select the special judge until each judge on the list has been selected once, before any one judge is selected twice, et cetera; provided however, that in the event one defendant has two or more cases, all such cases shall be assigned to the special judge first selected. This list shall remain confidential to the judge and designated staff. The special

judge selected thereunder, ~~with agreement of the parties, may~~ shall have the sole discretion to transfer the proceeding under Trial Rule 79(M).

~~3.4~~ — The judges of Adams County shall meet at least annually to review the impact of these rules and in particular the balancing of caseloads between the Courts.

~~3.5~~ — The Local Rules 3.1 through 3.5 shall be forwarded for review by the Indiana Supreme Court and upon approval of the Indiana Supreme Court these Rules shall become effective upon such approval.

#### LR01-TR79-04

This rule shall apply to the reassignment of cases and the selection of a senior judge in juvenile, paternity and domestic relation cases where there is an order of disqualification or recusal entered in the case in the Adams Circuit Court

After September 13, 1999 whenever the Judge of the Adams Circuit Court has a conflict of interest in any juvenile, paternity or domestic relations case which requires him to recuse himself because of prior contact with the case as Deputy Prosecuting Attorney, the case shall be assigned to the Senior Judge Vern E. Sheldon appointed to the Adams Circuit Court for all further proceedings.

Senior Judge Vern E. Sheldon Such Senior Judge shall accept jurisdiction under the provisions of this rule unless disqualified under the Code of Judicial Conduct or excused from service by the Indiana Supreme Court. The reassignment of such case shall be entered in the Chronological Case Summary of the case. An oath or special order accepting jurisdiction shall not be required. Senior Judge Vern E. Sheldon The Senior Judge shall retain jurisdiction of the case for all future proceedings unless a specific statute or rule provides to the contrary or the senior judge is unavailable by reason of death, sickness, absence, or unwillingness to serve. If further reassignment is required, because of the retirement of Senior Judge Vern E. Sheldon and if a Senior Judge has been appointed to the Adams Circuit Court, such reassignment shall be to such successor Senior Judge. If further reassignment is required, or the selection of a successor special judge or senior judge it shall be in the same manner as set forth in the rules of civil procedure Local Rule TR79-03.3.

#### LR01-TR79-05

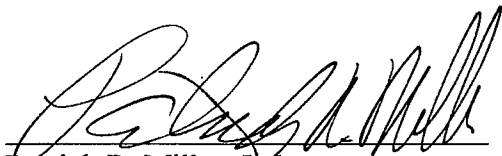
This rule shall apply to the reassignment of cases and the selection of a Senior Judge in criminal or domestic relation cases where there is an order of disqualification or recusal entered in the case in the Adams Superior Court.

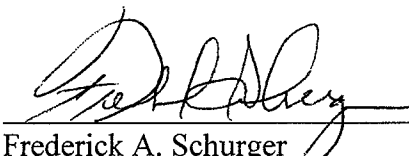


After December 31, 2008 whenever the Judge of the Adams Superior Court has a conflict of interest in any criminal or domestic relations case which requires him to recuse himself because of prior involvement with the case as a public defender attorney or as attorney for one of the parties, the case shall be assigned to the Senior Judge appointed to the Adams Superior Court for all further proceedings.

Such Senior Judge shall accept jurisdiction under the provisions of this rule unless disqualified under the Code of Judicial Conduct or excused from service by the Indiana Supreme Court. The reassignment of such case shall be entered in the Chronological Case Summary of the case. An oath or special order accepting jurisdiction shall not be required. The Senior Judge shall retain jurisdiction of the case for all future proceedings unless a specific statute or rule provides to the contrary or the Senior Judge is unavailable by reason of death, sickness, absence or unwillingness to serve. If further reassignment is required, the selection of a successor Special Judge or Senior Judge shall be in the same manner as set forth in Local Rule TR79-03.3.

DATED and ORDERED this 9th day of February, 2009.

  
Patrick R. Miller, Judge  
Adams Superior Court

  
Frederick A. Schurger  
Adams Circuit Court